

Agreement (Stipulation) in the above referenced docket and the Commission's May 5, 1995 order approving the Stipulation.

Kern River stated that on June 23, 1995, a total refund of \$662,500.00 was sent to the Kern River's firm transportation customers. Kern River apportioned the refund amounts based upon the actual contract demands in effect for each shipper for each month during the period March 1, 1993 through December 31, 1994. The report identifies each firm shipper, its aggregate contract demand during the referenced period, its resulting allocation percentage, and the refund amount.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before August 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-18783 Filed 7-31-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-628-000]

Koch Gateway Pipeline Company; Request Under Blanket Authorization

July 26, 1995.

Take notice that on July 19, 1995, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP95-628-000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to seek certificate authority to operate an existing delivery tap as a jurisdictional facility, under Koch Gateway's blanket certificate issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway requests authorization to place into jurisdictional service a two-inch tap constructed under Section 311(a) of the NGPA and § 284.3(c) of the Commission's Regulations. Koch

installed a delivery tap to serve the Washington Parish Utilities (Washington Parish), a local distribution company, from Koch Gateway's Bogalusa 10-inch line, designated as Index 301-4, Washington Parish, Louisiana. Washington Parish reimbursed Koch Gateway approximately \$11,000 for the installation of the facilities. Certification of the facilities will provide Washington Parish with the additional flexibility of being able to use these facilities as a delivery point on Washington Parish's blanket transportation agreements with Koch Gateway.

Koch Gateway proposes to provide Section 311 transportation service to Washington Parish pursuant to § 284(B) of the Commission's Regulations. Once these facilities are certificated Koch Gateway will also provide jurisdictional transportation services pursuant to Koch Gateway's NNS rate schedule and its blanket transportation certificate issued in Docket No. CP88-6-000. Washington Parish estimates that its average daily requirements at this point are 5 MMBtu. The volume delivered to this new point under the firm agreement will be within the certificated entitlement of that existing service.

Koch Gateway further states it will operate the proposed facilities in compliance with 18 CFR Part 157, Subpart F, and that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95-18779 Filed 7-31-95; 8:45 am]

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[Docket No. OR95-7-000]

Longhorn Partners Pipeline; Notice of Petition for Declaratory Order

July 26, 1995.

Take notice that on June 30, 1995, AXIS Gas Corporation (AXIS), pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 387.207(a)(2), filed a request for a declaratory order.

AXIS states that Longhorn Partnerships Pipeline (LPP), a partnership being formed by Axis, intends to convert certain crude oil pipeline facilities, which in conjunction with new pipeline facilities to be constructed, will provide common carrier transportation service for refined petroleum products from the Gulf Coast to El Paso, Texas—and through connecting pipelines into Arizona and New Mexico. The existing pipeline facilities proposed to be converted to this new pipeline are currently owned and operated by Exxon Pipeline Company (EPC). EPC currently moves crude oil on these facilities from West Texas (Crane, TX) to the Houston, Texas (Baytown, TX) area.

AXIS and its financial partner signed a letter of intent to purchase the pipeline facilities owned by EPC on June 9, 1995. That letter provides that a binding purchase and sale agreement must be entered into by a certain date. In the event that, before such date, the Commission has not declared that LPP will be allowed to include the full purchase price paid for these facilities in its cost-of-service calculations, AXIS will be unable to go forward with the contemplated project and the terms of the proposed agreement will expire. Notwithstanding that AXIS and its financial partner would continue to believe that the project would be commercially viable (apart from regulatory considerations), and notwithstanding the material benefits that the project would confer on shippers and consumers of petroleum products in the Southwest, AXIS and its financial partner would be unwilling to assume the regulatory risk that LPP would not be allowed to recover the purchase price paid to EPC. Accordingly, AXIS requests that this matter be handled on an expedited basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All

such motions or protests should be filed on or before August 15, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-18781 Filed 7-31-95; 8:45 am]

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[Docket Nos. ER94-1384-001, ER94-1450-004, ER94-1685-001, ER94-1690-001, ER94-1691-002, ER95-393-001]

Morgan Stanley Capital Group Inc., Coastal Electric Services Company, Citizens Lehman Power Sales, Engelhard Power Marketing, Inc., AIG Trading Corporation, CLP Hartford Sales, L.L.C.; Order Granting Rehearing in Part and Denying Rehearing in Part, Announcing Elimination of Power Marketer Business and Financial Arrangements Reporting Requirement, and Providing Guidance on Determining "Affiliation" Under Part II of the Federal Power Act

Issued July 26, 1995.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

Background

In a November 8, 1994 order issued in Docket No. ER94-1384-000, *Morgan Stanley Capital Group, Inc.*, 69 FERC ¶ 61,175 (1994) (November 8 Order), the Commission accepted for filing the application of Morgan Stanley Capital Group Inc. (MS Capital) for authorization to engage in wholesale electric energy transactions as a marketer at market-based rates. In the November 8 Order, the Commission denied MS Capital's request for relaxed reporting requirements and imposed the same filing and reporting requirements as those applicable to other power marketers. The Commission announced that it would reconsider these reporting requirements in a future generic proceeding applicable to all public utilities selling power at market-based rates. The Commission also denied MS Capital's request for waiver of the annual charge obligation and clarified that such obligation is applicable to all power marketers.

These cases present an appropriate vehicle for addressing the major issues in the November 8 Order. The

Commission will address other issues as they become ripe for resolution.

Requests for Rehearing of November 8 Order

On December 8, 1994, MS Capital filed a request for rehearing and modification of and for interim relief from the November 8 Order. MS Capital seeks relief from the November 8 Order in two respects. First, MS Capital asks the Commission to reverse its decision to require MS Capital to report business and financial arrangements between it (or an affiliate) and any entity that buys from or sells power to it, or at least to grant interim relief from that reporting requirement pending the outcome of the generic proceeding announced in the November 8 Order. MS Capital argues, among other things, that compliance with the requirement to report business and financial arrangements would be needlessly onerous and would inhibit the participation of experienced and highly qualified financial companies such as MS Capital in the markets for wholesale sales of electricity. MS Capital also questions whether the business and financial arrangements reporting requirement would provide the Commission and its staff with any meaningful data that could be used to detect reciprocal dealing. If the Commission does not reverse or stay application of the business and financial arrangements reporting requirement, MS Capital proposes several limitations to the scope of that requirement.

Second, MS Capital asks the Commission to reverse, or defer, its holding that power marketers are subject to the Commission's annual charge requirement. MS Capital asks the Commission, at a minimum, to defer its decision to collect annual charges from power marketers for a start-up (e.g., three-year) period "until power marketers are better established," after which time the Commission could evaluate "whether power marketers impose regulatory burdens on the Commission comparable to the burdens created by regulation of utilities with cost-based rates." MS Capital Rehearing Request at 3, 18.

On December 8, 1994, the Electric Power Monitoring Group and its individual members¹ filed a motion to intervene out-of-time and a request for rehearing of the November 8 Order. The Electric Power Monitoring Group seeks rehearing of the Commission's ruling

requiring all power marketers to pay annual charges. The Electric Power Monitoring Group argues, among other things, that: (1) The Commission has not adequately justified its departure from past policy and precedent pursuant to which it previously declined to assess power marketers annual charges; (2) the Commission has limited jurisdiction over power marketers, which does not warrant subjecting them to the annual charge requirement; (3) the Commission does not devote significant resources to the regulation of power marketers as to justify subjecting them to the annual charge requirement;² and (4) subjecting power marketers to the annual charge requirement effectively discriminates against power marketers, which will not be able to recover the annual charges in a cost of service rate as do other public utilities subject to the annual charge requirement.

On December 8, 1994, Citizens Lehman Power Sales (CL Sales) also filed a motion for leave to intervene out-of-time and a request for rehearing of the November 8 Order. CL Sales asks the Commission, pending its generic proceeding, to drop the business and financial arrangements reporting requirement and to rely upon existing complaint procedures. If the Commission decides to maintain the reporting requirement in the interim, CL Sales asks the Commission to clarify that its decision to exclude transitory holdings in connection with investment or merchant banking, market-making, or asset management activities for purposes of determining generation dominance³ also applies to the business and financial arrangements reporting requirement.

On December 9, 1994, Calpine Power Marketing Inc. (Calpine) filed a motion for leave to intervene out-of-time and a request for clarification of the November 8 Order. Like CL Sales, Calpine asks the Commission to clarify that the November 8 Order's exclusion of transitory holdings for purposes of assessing market power is equally applicable to reciprocal dealing concerns and thus also applies to the business and financial arrangements reporting requirement.

On July 7, 1995, MS Capital filed a motion for interim relief from the

² The Electric Power Monitoring Group argues that the Commission has failed to supply documentation to support its claim that it "can spend as much (if not more) time evaluating power marketer requests as it can other types of rate applications." 69 FERC at 61,697. The Electric Power Monitoring Group submits that such an analysis should be performed in a rulemaking proceeding of general applicability.

³ See 69 FERC at 61,693.

¹ The members of the Electric Power Monitoring Group joining in the pleading are Enron Power Marketing, Inc., Valero Power Services Company, Electric Clearinghouse, Inc., Intercontinental Energy Corporation, and KCS Energy Management Services, Inc.